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OFFICE OF PETITIONS

In re Patent No. 7,379,981

Issue Date: May 27, 2008

Application No. 10/040,150

Filed: January 2, 2002

Attorney Docket No. MESH.0020000

:
: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
: and
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition filed July 7, 2010, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional applications, and under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications, filed by way of a certificate of correction filed concurrently herewith.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Application no. 10/040,150 which was filed after November 29, 2000, matured into Patent No. 7,379,981 on May 27, 2008. The claim for the benefit of priority to a prior-filed nonprovisional application was submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3). However, the petition does not comply with item (1).

With respect to the reference, "claims priority" does not comply with 37 CFR 1.78(a)(2)(i) in that the reference does not state the relationship between the instant application and application 09/621,965 filed July 21, 2000 as required by 37 CFR 1.78(a)(2)(i). Additionally, neither of the provisional applications were filed within one year of the instant application filed January 2, 2002.

Before the petition under 37 CFR § 1.78(a)(3) and § 1.78(a)(6) can be granted, a renewed petition and a corrected certificate of correction will need to be submitted.

Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.



Chris Bottorff
Supervisor
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